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**Promotion and protection of all human rights,
civil, political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Thailand: Enforced disappearance during a time of lawlessness*

1. The Asian Legal Resource Centre (ALRC) wishes to bring the suspected enforced disappearance of Porjalee Rakchongcharoen, a Karen environmental activist and human rights defender (HRD) to the attention of the Human Rights Council. Porjalee disappeared after he was arrested on 17 April 2014 by park officials in Phetchaburi's Kaeng Krachan National Park in Phetchaburi province, Thailand. The park officials claim that they arrested Porjalee because he possessed wild honeycomb and six bottles of honey in excess of the law and planned to sell them, but that they released him after issuing a warning. Porjalee Rakchongcharoen did not return home after he was released and after extensive searching by his family and community members, park officials, and a special military task force, he has still not been found. The ALRC is concerned that Porjalee may have disappeared due to his long-standing activism in defense of human rights.
2. Porjalee Rakchongcharoen, also known by the nickname "Billy," is a 30-year-old HRD who has led a livelihood and human rights struggle of ethnically Karen villagers living in Kaeng Krachan district in Phetchaburi province. At the time of his disappearance, Porjalee was traveling to prepare for an upcoming court hearing in a lawsuit filed by the villagers against the National Park, Wildlife and Plant Conservation Department in the Ministry of Natural Resource and Environment and the Head of Kaeng Krachan National Park, Wildlife and Plant Conservation Office. In the lawsuit the villagers claim that in July 2011, the authorities were responsible for the destruction and burning of houses and property of more than 20 Karen families who were living in the Bangkloybon Villages in Kaeng Krachan National Park. In addition to destroying the houses and property of the villagers on 10 September 2011, Tassanakamol Aobeom, another HRD and villagers, was assassinated. Mr. Chaiwat, the Head of Kaeng Krachan National Park, Wildlife and Plant Conservation Office, has been accused of hiring someone to kill Tassanakamol and the case is currently pending a decision by the court.
3. At this time, Porjalee Rakchongcharoen's family and the villagers have used the avenues available to them under existing Thai law to attempt to find him and secure justice. On 19 April 2014, the villagers filed a complaint with the local police regarding Porjalee Rakchongcharoen's disappearance. On the morning of 24 April 2014, his wife submitted a petition under Article 90 of the Criminal Procedure Code at the Petchaburi Provincial Court; Article 90 stipulates that various parties, including a spouse, "where any person is alleged to be unlawfully confined in a criminal case or in any other event... shall be entitled to submit a motion to the court empowered to exercise criminal jurisdiction over such locality for release of the person in question". The hearings, including of the National Park officials involved in Billy's arrest, began on the afternoon of 24 April 2014 and continuing up until the time of the submission of this statement.
4. However, Article 90 offers only limited avenues for redress. If the officials claim that they released Porjalee, then there is additional power in the to press them further. A pattern frequently seen in Thailand is that a person is arrested by the authorities, released, and then either disappeared or extrajudicially killed. This underscores the need for Thailand to ratify the UN International Convention for the Protection of All Persons from Enforced Disappearance, which it signed on 9 January 2012, and pass domestic law making disappearance a distinct crime. The lack of a formal legal and investigatory framework accounting for enforced disappearance in Thailand is part of what makes this a strategy frequently used by state officials and others to eliminate their critics.
5. The ALRC is aware that ratification of the Convention will require a series of changes to both national law and the routine practices of law enforcement and the judiciary. However, these changes are necessary in order to ensure that Porjalee Rakchongcharoen is located, and to combat impunity in the case of the disappearance of Somchai Neelaphaijit, and in the cases of 59 other persons disappeared between 2001 and 2012 documented by the Justice for Peace Foundation.
6. In particular related to the case of Porjalee Rakchongcharoen, the ALRC would like to remind the Government of Thailand that Article 3 of the Convention mandates that, "Each State Party shall take appropriate measures to investigate acts defined in article 2 committed by persons or groups of persons acting without the authorization, support or acquiescence of the State and to bring those responsible to justice." If the Convention were in force in Thailand, it would entail a more robust investigatory framework than the series of hearings which follow from Article 90 of the Criminal Procedure Code.

7. The enforced disappearance of Porjalee Rakchongcharoen in Thailand in late April 2014 took place during a period of general lawlessness and breakdown of the rule of law in Thailand. Although there have been cycles of political contention and conflict, the six months immediate prior to the submission of this statement witnessed an intensification of this conflict between the elected Pheu Thai government and their supporters on the one side (known as the red shirts), and the People's Democratic Reform Committee (PDRC), a movement led by members of the opposition Democrat Party (known as the yellow shirts). During the past six months, there were reports of detention and torture being carried out by guards at the PDRC demonstrations. There were also reports of bombs thrown into the houses of leaders on both sides. With respect to the specific topic of this submission, however, the ALRC would like to note that during this period, already vulnerable critics and HRDs have been targeted. The ongoing political strife has created a void of lawlessness in which both state officials and others have been able to perpetrate extrajudicial violence with impunity. In a case that the ALRC previously brought to the attention of the Council, on 12 February 2014, there was an attempted assassination of Somsak Jeamteerasakul, a history professor and dissident critic (A/HRC/25/NGO/61). In mid-April, its sister organization, the Asian Human Rights Commission (AHRC), issued an appeal about a group of anti-mining activists and HRDs in Loei who were attacked in the middle of the night by a group of armed thugs. Martial law was promulgated by the General Prayuth Chan-ocha, the Commander-in-Chief of the Royal Thai Army on 20 May 2014. Given the potential for human rights violations written into Thailand's martial law provisions, the ALRC is concerned that rather than solving the problem of lawlessness, martial law may deepen it. The ALRC wishes to highlight the importance of not allowing the suspected enforced disappearance of Porjalee Rakchongcharoen to be forgotten amidst national political contention.

8. In view of the above and in line with the commitment, in principle, that the Government of Thailand made when it signed the UN International Convention for the Protection of All Persons from Enforced Disappearance, the Asian Legal Resource Centre calls on the UN Human Rights Council to:

- a. Call on the Government of Thailand to carry out a full investigation into the disappearance of Porjalee Rakchongcharoen until he has been found or the truth has been firmly and publicly established;
- b. Call on the Government of Thailand to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, and;
- c. Request that the Working Group on Enforced or Involuntary Disappearances monitor the case of Porjalee Rakchongcharoen and other cases of disappearance in Thailand.

* Community Resource Center, Justice for Peace Foundation in Thailand NGO(s) without consultative status, also share the views expressed in this statement.